

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO**

In re POLYURETHANE FOAM ANTITRUST
LITIGATION

MDL Docket No. 2196
Index No. 10-MD-2196 (JZ)

This document relates to:

DIRECT AND INDIRECT PURCHASER CLASS ACTIONS

STIPULATION AND ORDER

This Stipulation and Order (hereinafter, “Stipulation”) is made and entered into this 13th day of September 2012, by and between Otto Bock Polyurethane Technologies, Inc. (“Otto Bock”) and Plaintiffs, individually and on behalf of putative classes of purchasers of polyurethane foam or polyurethane foam products (together, “polyurethane foam”) directly and indirectly (“Plaintiffs”) from any Defendants named in the above-captioned actions (the “Actions”).

R E C I T A L S

WHEREAS, there is pending in the United States District Court for the Northern District of Ohio, the consolidated and coordinated Actions, *In re Polyurethane Foam Antitrust Litigation*, MDL Docket No. 2196, Index No. 10-MD-02196 (JZ), brought on behalf of direct and indirect purchasers of polyurethane foam, in which Plaintiffs have alleged violations of law, including the existence of an unlawful conspiracy to fix, raise, maintain, or stabilize the prices of polyurethane foam and allocate customers for polyurethane foam in the United States in violation of Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1, and Section 4 of the Clayton Act, 15 U.S.C. § 15;

WHEREAS, Otto Bock, named as a defendant in the Actions, denies: (1) each and all of the allegations of wrongdoing made by Plaintiffs in the Actions against Otto Bock and maintains furthermore that it has meritorious defenses; (2) all allegations of wrongdoing or liability against it arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the Actions; (3) the allegations that the Plaintiffs were harmed by Otto Bock’s conduct, as alleged in the Actions or otherwise; and (4) the allegations that class certification of any claims in the Actions is proper as to Otto Bock;

WHEREAS, Direct Purchaser Class Action Plaintiffs’ Interim Co-Lead Counsel and Indirect Purchaser Plaintiffs’ Interim Lead Counsel (“Plaintiffs’ Counsel”) have concluded that it

is in the best interests of Plaintiffs to dismiss Otto Bock without prejudice from the Actions in light of the consideration to be provided by Otto Bock, under the circumstances set forth below;

WHEREAS, the parties to this Stipulation agree that neither this Stipulation nor any statement made in the negotiation thereof shall be deemed or construed to be an admission or evidence of any violation of any statute or law, of any liability or wrongdoing, or of the truth of any of the claims or allegations alleged in the Actions;

WHEREAS, Otto Bock agrees to cooperate with Plaintiffs' Counsel by providing truthful information related to the polyurethane foam industry and the claims asserted by Plaintiffs in the Actions against the Defendants named in such Actions and parties not currently named as Defendants in the Actions in response to reasonable requests from Plaintiffs and subject to reasonable assertions of applicable privileges and obligations of confidentiality.

STIPULATION

Plaintiffs' Counsel and Otto Bock hereby stipulate pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii) to a dismissal of Otto Bock without prejudice from the Actions.

Otto Bock agrees to cooperate with Plaintiffs' Counsel by providing truthful information, including without limitation through meetings between Plaintiffs' Counsel and officers or employees of Otto Bock, related to the polyurethane foam industry and the claims asserted by Plaintiffs in the Actions against the Defendants named in such Actions and parties not currently named as Defendants in the Actions in response to reasonable requests from Plaintiffs and subject to reasonable assertions of applicable privileges and obligations of confidentiality.

Should Plaintiffs' Counsel find a basis for reasserting claims against Otto Bock in the Actions, Plaintiffs' Counsel may, not less than sixty days prior to the close of discovery, move for leave of Court to do so, and Otto Bock will have an opportunity to respond. Otto Bock agrees that, should the Court permit Plaintiffs to reassert their claims against Otto Bock, it will

waive formal service of any amended complaint(s), and service on its or its counsel will be effective.

Otto Bock and Plaintiffs' Counsel agree that all applicable state and federal statutes of limitations for the filing of any claims, defenses, counterclaims, and/or third-party claims concerning the matters alleged in the Direct Purchaser Plaintiffs and Indirect Purchaser Plaintiffs Consolidated Amended Complaints shall be tolled through the close of discovery.

Otto Bock and Plaintiffs' Counsel agree that by entering into this Stipulation Otto Bock and Plaintiffs' Counsel expressly preserve and do not waive, prejudice, release, or otherwise lose any available claims or defenses (including jurisdictional defenses) that may be available under the Federal Rules of Civil Procedure or any other rules or statutory or common law. Neither the execution of this Stipulation nor anything contained herein is intended to be, nor shall be deemed to be, an admission of any liability or defense by anyone, or an admission of the existence of facts upon which liability or a defense could be based or contested.

STIPULATED BY:

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Counsel for Otto Bock Polyurethane Technologies, Inc.

SO ORDERED:

Hon. Jack Zouhary
United States District Judge